

# House File 2401 - Reprinted

HOUSE FILE 2401  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 687)

(As Amended and Passed by the House February 23, 2022)

## A BILL FOR

1 An Act relating to the disclosure of specified information in  
2 connection with designated online marketplace transactions  
3 and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   554E.1 Definitions.

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1. "*Consumer product*" means goods that are used or bought  
5 for use primarily for personal, family, or household purposes.

6     2. "*High-volume third-party seller*" means a participant on  
7 an online marketplace platform who is a third-party seller  
8 and who, in any continuous twelve-month period during the  
9 previous twenty-four months, has entered into two hundred or  
10 more discrete sales or transactions of new or unused consumer  
11 products made through the online marketplace and for which  
12 payment was processed by the online marketplace, either  
13 directly or through its payment processor, and an aggregate  
14 total of five thousand dollars or more in gross revenues.

15     3. "*Online marketplace*" means a person or entity that  
16 operates a consumer-directed electronically based or accessed  
17 platform as follows:

18     a. The platform includes features that allow for,  
19 facilitate, or enable third-party sellers to engage in the  
20 sale, purchase, payment, storage, shipping, or delivery of a  
21 consumer product in the state.

22     b. The platform is used by one or more third-party sellers  
23 for the purposes specified in paragraph "a".

24     c. The platform has a contractual or similar relationship  
25 with consumers governing their use of the platform to purchase  
26 consumer products.

27     4. "*Seller*" means a person who sells, offers to sell,  
28 or contracts to sell a consumer product through an online  
29 marketplace platform in the state.

30     5. "*Third-party seller*" means a seller, independent of an  
31 online marketplace, who sells, offers to sell, or contracts  
32 to sell a consumer product in the state through an online  
33 marketplace platform. The term "*third-party seller*" does not  
34 include, with respect to an online marketplace, the following:

35     a. A seller who operates an online marketplace platform.

1     **b.** A business entity that has made available to the general  
2 public the entity's name, business address, and working contact  
3 information; that has an ongoing contractual relationship with  
4 the online marketplace to provide the online marketplace with  
5 the manufacture, distribution, wholesaling, or fulfillment of  
6 shipments of consumer products; and that has provided to the  
7 online marketplace identifying information, as described in  
8 section 554E.2, that has been verified in accordance with that  
9 section.

10     **6.** "*Verify*" means to confirm information provided to  
11 an online marketplace pursuant to this chapter, which may  
12 include the use of one or more methods that enable the online  
13 marketplace to reliably determine that any information and  
14 documents provided are valid, corresponding to the seller or an  
15 individual acting on the seller's behalf, not misappropriated,  
16 and not falsified.

17     **Sec. 2. NEW SECTION. 554E.2 Collection of information.**

18     **1.** An online marketplace shall require any high-volume  
19 third-party seller on an online marketplace platform to  
20 provide, not later than ten days after qualifying as a  
21 high-volume third-party seller on the platform, the following:

22     **a.** A bank account number, or, if such seller does not have a  
23 bank account, the name of the payee for payments issued by the  
24 online marketplace to such seller.

25     **b.** The seller's contact information.

26     **c.** A business tax identification number, or, if such seller  
27 does not have a business tax identification number, a taxpayer  
28 identification number. Any information contained in such  
29 document shall be presumed to be verified as of the date of  
30 issuance of such document.

31     **d.** A current working email address and phone number for such  
32 seller.

33     **2.** The bank account or payee information required under this  
34 section may be provided by the seller as follows:

35     **a.** To the online marketplace.

1     *b.* To a payment processor or other third party contracted by  
2 the online marketplace to maintain such information, provided  
3 that the online marketplace ensures that it can obtain such  
4 information on demand from such payment processor or other  
5 third party.

6     3. Acceptable forms of seller contact information include  
7 the following:

8     *a.* With respect to a high-volume third-party seller that is  
9 an individual, the individual's name.

10    *b.* With respect to a high-volume third-party seller that  
11 is not an individual, one of the following forms of contact  
12 information:

13     (1) A copy of a valid government-issued identification for  
14 an individual acting on behalf of such seller that includes the  
15 individual's name.

16     (2) A copy of a valid government-issued record or tax  
17 document that includes the business name and physical address  
18 of such seller. Any information contained in such document  
19 shall be presumed to be verified as of the date of issuance of  
20 such document.

21     4. An online marketplace shall verify the information  
22 collected under this section not later than ten days after  
23 collection.

24     Sec. 3. NEW SECTION. 554E.3 Information updates.

25     1. An online marketplace shall do the following:

26     *a.* Periodically, but not less than annually, notify a  
27 high-volume third-party seller on an online marketplace  
28 platform of the requirement to keep any information collected  
29 under this chapter current.

30     *b.* Require a high-volume third-party seller on an online  
31 marketplace platform to, not later than ten days after  
32 receiving the notice under this section, electronically certify  
33 that the following:

34     (1) That the seller has provided any changes to such  
35 information to the online marketplace, if any such changes have

1 occurred.

2 (2) That there have been no changes to such seller's  
3 information.

4 (3) That the seller has provided any changes to such  
5 information to the online marketplace.

6 2. An online marketplace shall verify any change to such  
7 information not later than ten days after being notified of the  
8 change by a high-volume third-party seller under this section.

9 Sec. 4. NEW SECTION. 554E.4 **Suspension.**

10 In the event that a high-volume third-party seller does not  
11 provide the information or certification required under this  
12 chapter, the online marketplace shall, after providing the  
13 seller with written or electronic notice and an opportunity  
14 to provide such information or certification not later than  
15 ten days after the issuance of such notice, suspend any future  
16 sales activity of the seller until the seller provides such  
17 information or certification.

18 Sec. 5. NEW SECTION. 554E.5 **Data collection.**

19 1. Data collected solely to comply with the requirements  
20 of this section may not be used for any other purpose unless  
21 required by law.

22 2. An online marketplace shall implement and maintain  
23 reasonable security procedures and practices, including  
24 administrative, physical, and technical safeguards, appropriate  
25 to the nature of the data and the purposes for which the data  
26 will be used, to protect the data collected to comply with the  
27 requirements of this section from unauthorized use, disclosure,  
28 access, destruction, or modification.

29 Sec. 6. NEW SECTION. 554E.6 **Disclosure requirements.**

30 1. An online marketplace shall do the following:

31 a. Require a high-volume third-party seller with an  
32 aggregate total of twenty thousand dollars or more in annual  
33 gross revenues on an online marketplace, and that uses an  
34 online marketplace platform, to provide the information as  
35 specified in subsection 2 to the online marketplace.

1     *b.* Disclose the information described in this section  
2 to consumers in a clear and conspicuous manner in the order  
3 confirmation message or other document or communication made  
4 to the consumer after the purchase is finalized and in the  
5 consumer's account transaction history.

6     2. A high-volume third-party seller subject to this section  
7 shall disclose the following:

8     *a.* The full name of the seller, which may include the  
9 seller's name or seller's company name, or the name by which  
10 the seller or company operates on the online marketplace.

11    *b.* The physical address of the seller.

12    *c.* Contact information for the seller, to allow for the  
13 direct, unhindered communication with high-volume third-party  
14 sellers by users of the online marketplace, including a current  
15 working phone number, a current working email address, or other  
16 means of direct electronic messaging which may be provided to  
17 the seller by the online marketplace.

18    *d.* When a high-volume third-party seller uses a different  
19 seller to supply the consumer product to the consumer upon  
20 purchase, and upon the request of an authenticated purchaser,  
21 the information described in this section relating to any such  
22 seller that supplied the consumer product to the purchaser, if  
23 the seller is different than the high-volume third-party seller  
24 listed on the product listing prior to purchase.

25     3. An online marketplace shall disclose to consumers in  
26 a clear and conspicuous manner on the product listing of the  
27 high-volume third-party seller a reporting mechanism that  
28 allows for electronic and telephonic reporting of suspicious  
29 marketplace activity to the online marketplace.

30     4. If a high-volume third-party seller does not comply with  
31 the requirements to provide and disclose information under this  
32 section, the online marketplace shall, after providing the  
33 seller with written or electronic notice and an opportunity to  
34 provide or disclose such information not later than ten days  
35 after the issuance of such notice, suspend any future sales

1 activity of the seller until the seller complies with the  
2 requirements.

3     Sec. 7. NEW SECTION.   **554E.7 Exceptions.**

4     1. Subject to section 554E.6, upon the request of a  
5 high-volume third-party seller, an online marketplace may  
6 provide for partial disclosure of the identity information  
7 required under section 554E.6 as follows:

8     *a.* If the seller certifies to the online marketplace that  
9 the seller does not have a business address and only has a  
10 residential street address, or has a combined business and  
11 residential address, the online marketplace may disclose only  
12 the country and, if applicable, the state in which such seller  
13 resides; and inform consumers that there is no business address  
14 available for the seller and that consumer inquiries should  
15 be submitted to the seller by phone, email, or other means of  
16 electronic messaging provided to such seller by the online  
17 marketplace.

18     *b.* If the seller certifies to the online marketplace  
19 that the seller is a business that has a physical address  
20 for product returns, the online marketplace may disclose the  
21 seller's physical address for product returns.

22     *c.* If the seller certifies to the online marketplace that  
23 the seller does not have a phone number other than a personal  
24 phone number, the online marketplace shall inform consumers  
25 that there is no phone number available for the seller and that  
26 consumer inquiries should be submitted to the seller's email  
27 address or other means of electronic messaging provided to such  
28 seller by the online marketplace.

29     2. If an online marketplace becomes aware that a high-volume  
30 third-party seller has made a false representation to the  
31 online marketplace in order to justify the provision of a  
32 partial disclosure under section 554E.6 or that a high-volume  
33 third-party seller who has requested and received a provision  
34 for a partial disclosure under section 554E.6 has not provided  
35 responsive answers within a reasonable time frame to consumer

1 inquiries submitted to the seller by phone, email, or other  
2 means of electronic messaging provided to such seller by  
3 the online marketplace, the online marketplace shall, after  
4 providing the seller with written or electronic notice and  
5 the opportunity to respond not later than ten days after the  
6 issuance of such notice, suspend any future sales activity of  
7 such seller unless such seller consents to the disclosure of  
8 the identity information required under section 554E.6.

9     Sec. 8. NEW SECTION.   **554E.8 Enforcement — penalties.**

10     1. If the attorney general has reasonable belief that  
11 an online marketplace is in violation of this chapter, the  
12 attorney general has the sole authority to bring civil action  
13 to provide for all of the following:

14     *a.* Enjoin further violations by the online marketplace.

15     *b.* Enforce compliance with this chapter.

16     *c.* Assess civil penalties in an amount not more than one  
17 hundred thousand dollars.

18     *d.* Obtain other remedies permitted under law.

19     *e.* Obtain damages, restitution, or other compensation on  
20 behalf of residents of the state.

21     2. This chapter shall not be construed to prevent the state  
22 from exercising the power to conduct investigations, administer  
23 oaths or affirmations, or compel the attendance of witnesses or  
24 the production of documentary and other evidence.

25     3. The attorney general may adopt rules as necessary to  
26 implement this chapter.

27     Sec. 9. NEW SECTION.   **554E.9 Severability.**

28     If any provision of this chapter or the application  
29 thereof to any person or circumstances is held invalid, the  
30 validity shall not affect other provisions or applications  
31 of the chapter which can be given effect without the invalid  
32 provisions or application and, to this end, the provisions of  
33 this chapter are severable.

34     Sec. 10. **EFFECTIVE DATE.** This Act takes effect January 1,  
35 2023.